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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/918,287  
Filing Date: July 30, 2001  
Appellant(s): NOVAIS ET AL.

Kathleen Neuner Manne  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 9/18/2006 appealing from the Office action  
mailed 6/16/2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,608,563	Weston et al.	8-2003
5,469,536	Blank	11-1995
6,532,345	Gluck	3-2003
2002/0085762 A1	Shniberg et al.	7-2002
6,473,739	Showghi et al.	10-2002

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

#### ***Claim Rejections - 35 USC § 102***

**Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,608,563 to Weston et al.**

With respect to **claim 1** **Weston** discloses, in Fig. 1, 2, 3A, 3B and 4, a method of offering imaging services to a customer, the method comprising: offering at least one imaging service to a customer for selection (column 4 lines 1-5 and lines 14-20; where the imaging service is providing the photo/video album or the comic book) prior to the customer's attendance at an entertainment event or while the customer is at the entertainment event (column 4 lines 56-59; Fig. 1 shows the special kiosk 130 at the entertainment event, the entertainment event being the park or entertainment facility, so Weston discloses the imaging service is provided while the customer is at the entertainment event); recording an imaging service selected by the customer (column 4 lines 63-66) and assigning an identification code to the customer selection (column 3 lines 40-44 and column 4 line 65 through column 5 line 5; where the identification code is the unique person or group identification number contained in the RFID tag, UPIN or UGIN), said identification code including at least information on the selected imaging service and information inputted by the customer on a seating location of the customer

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at the entertainment event (see the following paragraph); and supplying images to the customer based on the selected imaging service (column 5 lines 25-34 and column 6 lines 48-54), said images including images of participants in the entertainment event and images of at least the customer at said seating location while viewing the entertainment event (column 6 lines 38-54; where the comic book is made of images of the customer taken at the inputted seating locations).

Since the entertainment event is the park the claim is written broadly enough that the customer at the park can be considered both the customer and the participant in the entertainment event. Therefore Weston discloses images of participants in the entertainment event and images of at least the customer while viewing the entertainment event since the customer would be the participant in the entertainment event when playing in, on or around the facility (column 4 lines 20-23). Also, since the identification code is used to index the photos of the customer for creation of the photo album or interactive comic book (column 3 lines 58-62, column 4 lines 41-44, column 5 lines 19-24 and column 7 line 58 through column 8 line 3) the identification code can be viewed as containing information of the selected imaging service and the seating location of the customer. The seating location of the customer corresponding to the image taking location of the customer within the park. This seating location is inputted by the customer when the customer selects the type of comic book they would like to be transformed into as each comic book has predetermined locations of image capture.

With respect to **claim 2 Weston** discloses, in Fig. 2 and 4, a method according to claim 1, wherein said step of supplying images to the customer includes the steps of:

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setting up remotely controlled cameras (210) throughout a venue at which the entertainment event is to take place (Fig. 2 and column 5 lines 5 lines 30-36); and using the cameras to take photographs of the event as it occurs and photographs of participants in the event as it occurs based on the selected imaging service (column 5 lines 30-36; where the participants are the customer and other guests of the park).

With respect to **claim 3 Weston** discloses, in Fig. 2 and 4, a method according to claim 2, wherein said step of supplying images to the customer further includes the step of: using the cameras to take photographs of the customer at his/her seating location while viewing the event based on the seating location information (column 5 lines 30-36 and column 6 lines 18-24; since the seating location of the customer corresponds to the location of the ride/event in which the customer is participating the customer's image is taken at the seating location and are indexed by their seating location).

With respect to **claim 4 Weston** discloses, in Fig. 1 and 2, a method according to claim 1, wherein said information on the selected imaging service includes information reflective of a customer preference with regard to the participants at the entertainment event (column 4 lines 59-62 and column 6 lines 24-28; by choosing the desired comic book version and defining the individuals in the group identifier number the customer gives preference to the participants in the entertainment event).

With respect to **claim 5 Weston** discloses, in Fig. 1 and 2, a method according to claim 3, wherein said photographs are taken at an appropriate moment of capture which is reflective of a period of high volume and/or excitement during the entertainment event (column 5 lines 40 through column 6 lines 24; not knowing the way the photos

correspond to the selected comic book offer a period of excitement as well as the interaction with the scene of the photo, such as receiving the surprise squirt of (11); and making the acquiring of the photos a scavenger hunt gives the image service an other period of high excitement).

With respect to **claim 6 Weston** discloses, in Fig. 1 and 2, a method according to claim 1, wherein said seating location of the customer at the entertainment event is determined by scanning a ticket (column 6 lines 18-24; the ticket corresponds to the tag containing the UPIN since it provides information as to the location of the customer when the image is recorded).

With respect to **claim 7 Weston** discloses, in Fig. 1 and 2, a method according to claim 1, wherein said selections of images of the entertainment event are made by the customer at a location remote from the site of the entertainment event (column 6 lines 61-67).

### ***Claim Rejections - 35 USC § 103***

**Claims 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,469,536 to Blank in view of U.S. Patent 6,532,345 to Gluck in further view of U.S. Patent Application Publication 2002/0085762 A1 to Shniberg et al.**

With respect to **claim 8 Blank** discloses (in Fig. 1, 18, 19a-d and column 28 line 1 through column 32 line 60) an image service kiosk which provides the customer with a displayed menu of imaging services; through a customer input section customers select services from the menu; the selected services are then used to create images



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containing the customer. More specifically, **Blank** discloses a imaging services kiosk (Fig. 1 and 900 of Fig. 18) comprising: an imaging services display section (908) (column 28 lines 61-62) adapted to display a menu (column 31 lines 28-37) of imaging services to a customer (column 28 lines 18-43; where the imaging services provided to the customer are through the editing and manipulation program which moves enlarges, rotates, and enhances the images by selection of tools, painting tools, and special effects available in the imaging system 900), and a customer input section (922 and 924) adapted to permit a customer to select an imaging service from the menu of imaging services (column 31 lines 28-31), such that said selected imaging services comprises creating images for the customer (column 32 lines 16-21) which includes at least one image of the customer (column 10 lines 40-54). Therefore, **Blank** teaches an imaging services kiosk which comprises a display section adapted for displaying a menu, an input section which allows the customer to select imaging services from the menu, the imaging services comprising creating at least one image of the customer. **Blank** also discloses (column 8 lines 45-52) that the imaging system disclosed can be used in virtually an application where it is desirable to separate an object from a background in a digital image, and then combine the object with a different background to form a composite image. **Blank** does not expressly disclose that seating information representative of a seating location of the customer at an entertainment event may be entered through the input section, that the image services comprise at least one image of the participant at the entertainment event and at least one image of the customer while viewing the entertainment event, that the imaging service is selected either prior to

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attendance at an entertainment event or while in attendance at the event or where the seating location of the customer is used in directing an image capture device toward the seating location.

In analogous art, **Gluck** discloses an imaging system and method at an entertainment event which provides customers with an imaging service selected by the customer either prior to attendance at an entertainment event or while in attendance at the event; the imaging service comprises a composite photo containing images of the participants at the entertainment event and at least one image of the customer while viewing the entertainment event. More specifically, **Gluck** discloses, in Fig 1, 4 and 6, an imaging service (column 3 lines 61-67; where the imaging service is providing the customer personalized souvenirs) at an entertainment event (Fig. 1; a basketball game); the imaging service being provided by a kiosk (column 6 line 62 through column 7 line 1; where the kiosk is the video unit or the walk-up window); selecting a imaging service using an input section (means of inputting the simple commands in video unit or the interaction with operator of walk-up window) by entering seating information representative of a seating location of the customer at an entertainment event (column 7 lines 2-9; where the customer's personalized souvenir is created based upon the seating number provided by the customer) either prior to attendance at an entertainment event or while in attendance at the event (column 6 line 65 through column 7 line 5; where the imaging service is selected by the customer while in attendance at the event); and the customers imaging services (personalized souvenirs) comprise at least one image of the participants (column 4 lines 4-11 and column 3 lines

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61-67) and at least one image of the customer while viewing the entertainment event (column 4 lines 51-57 and column 3 lines 61-67) (column 6 lines 26-39; where the spectator photo is of the customer). Therefore, **Gluck** teaches a imaging services kiosk at an entertainment event comprising imaging services selected by the customer either prior to attendance at an entertainment event or while in attendance at the event; a customer input section for entering seating information representative of a seating location of the customer at an entertainment event, and creating for the customer images including at least one image of participants at the entertainment event and at least one image of the customer while viewing the entertainment event.

As stated in **Gluck** (column 1 lines 36-40 and column 2 lines 14-18) at the time the invention was made it would have been obvious to one of ordinary skill in the art to include the imaging services at an entertainment event taught by Gluck in the imaging services kiosk disclosed by **Blank**, for doing so would allow customers attending live events a means to positively indicate they attended the live event through a truly personalized souvenir which is provided to a large number of customers quickly and easily while the customers attend the live event.

Further in analogous art, **Shniberg** discloses, in Fig. 1, 4 and 6, an imaging service offered to a customer, which takes images of the customer at a seating location and where the seating location of the customer is used in directing an image capture device toward the seating location. More specifically, **Shniberg** discloses an imaging service offered to a customer (paragraph 46 and 80), which takes images of the customer at a seating location (paragraph 47, 49 and 59) and where the seating

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location of the customer is used in directing an image capture device toward the seating location (paragraph 74 and 75; where a person with access the website enters the customers seating location to see a real time picture of the customer; to get a real time picture a camera must be directed towards the seating location of the customer, this is done in response to the seating location, which was enter via the website). Therefore, **Shniberg** teaches where the seating location of the customer is used in directing an image capture device toward the seating location.

As stated in **Shniberg** (paragraph 75) at the time the invention was made it would have been obvious to include using the seating location to direct an image capture device towards the seating location as taught by **Shniberg** in the system disclosed by **Blank in view of Gluck**, for doing so would allow a viewer of an event to see a real time picture of the customer at the entertainment event which the viewer could then purchase to keep are a record of the customer being at the entertainment event, thus allowing the viewer to more personally relate to the event with the customer.

With respect to **claim 10 Blank** discloses (in Fig. 1, 18, 19a-d and column 28 line 1 through column 32 line 60) an image service kiosk comprising: an imaging service display section which provides the customer with a displayed menu of imaging services; through a customer input section customers select services from the menu; the selected services are then used to create images containing the customer. More specifically, **Blank** discloses a imaging services kiosk (Fig. 1 and 900 of Fig. 18) comprising: an imaging services display section (908) (column 28 lines 61-62) adapted to display a menu (column 31 lines 28-37) of imaging services to a customer (column 28 lines 18-

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43; where the imaging services provided to the customer are through the editing and manipulation program which moves enlarges, rotates, and enhances the images by selection of tools, painting tools, and special effects available in the imaging system 900),discloses an image capture device (106, 914) (column 10 lines 40-45 and column 32 lines 16-21) which is adapted to capture an image of the customer (column 10 lines 46-53); and a customer input section (922 and 924) adapted to permit the customer to select an imaging service from the menu of imaging services (column 31 lines 28-31), such that said selected imaging service comprises creating a composite image (column 14 lines 16-19) which includes the customer image captured by the image capture device (column 10 lines 40-53 and column 13 lines 53-66; such that the composite image comprises at least one image of the customer, that of the customer's head and neck). Therefore, **Blank** teaches an imaging service kiosk comprising: an imaging services display section adapted to display a menu of imaging services to a customer; an image capture device which is adapted to capture an image of the customer; and a customer input section adapted to permit the customer to select an imaging service from the menu of imaging services, such that said selected imaging service comprises creating a composite image which includes the customer image captured by the image capture device.

**Blank** also discloses (column 8 lines 45-52) that the imaging system disclosed can be used in virtually an application where it is desirable to separate an object from a background in a digital image, and then combine the object with a different background to form a composite image. **Blank** does not expressly disclose that the composite

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image includes at least one image of the entertainment event and/or at least one image of participants at the entertainment event combined with the customer images, that the imaging service is selected either prior to attendance at an entertainment event or while in attendance at the event or entering seating information representative of a seating location of the customer at the entertainment event for use in directing the image capture device towards the seating location.

In analogous art, **Gluck** discloses an imaging system and method at an entertainment event which provides customers with an imaging service selected by the customer either prior to attendance at an entertainment event or while in attendance at the event; the imaging service comprises a composite photo containing images of the participants at the entertainment event and images of the customer while viewing the entertainment event. More specifically, **Gluck** discloses, in Fig 1, 4 and 6, an imaging service (column 3 lines 61-67; where the imaging service is providing the customer personalized souvenirs) at an entertainment event (Fig. 1; a basketball game); the imaging service being provided by a kiosk (column 6 line 62 through column 7 line 1; where the kiosk is the video unit or the walk-up window) either prior to attendance at an entertainment event or while in attendance at the event (column 6 lines 65 through column 7 line 5; where the imaging service is selected by the customer while in attendance at the event); and the customers imaging services (personalized souvenirs) comprise a composite image (column 6 lines 17-23) comprising at least one image of the entertainment event and/or the participants (column 4 lines 4-11 and column 3 lines 61-67) combined with the customer image captured by the image capture device (8)

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(column 2 lines 50-55 and column 4 lines 51-57) (column 3 lines 61-67; images taken by step 400a [the participant images] and images taken by step 400c [the customer images] are combined in step 440 to one composite image). Therefore, **Gluck** teaches an imaging services kiosk comprising: an imaging service selected by the customer either prior to attendance at an entertainment event or while in attendance at the event, said imaging services being associated with an entertainment event which is attended by the customer; an image capture device which is adapted to capture an image of the customer; and a customer input section adapted to permit the customer to select an imaging service, such that said selected imaging service comprises creating a composite image which includes at least one image of the entertainment event and/or at least one image of participants at the entertainment event combined with the customer image captured by the image capture device.

As stated in **Gluck** (column 1 lines 36-40 and column 2 lines 14-18) at the time the invention was made it would have been obvious to one of ordinary skill in the art to include the imaging services at an entertainment event taught by Gluck in the imaging services provided by the kiosk disclosed by Blank, for doing so would allow customers attending live events a means to positively indicate they attended the live event through a truly personalized souvenir which is provided to a large number of customers quickly and easily while the customers attend the live event.

Further in analogous art, **Shniberg** discloses, in Fig. 1, 4 and 6, an imaging service offered to a customer, which takes images of the customer at a seating location and entering seating information representative of a seating location of the customer at

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the entertainment event for use in directing the image capture device towards the seating location. More specifically, **Shniberg** discloses an imaging service offered to a customer (paragraph 46 and 80), which takes images of the customer at a seating location (paragraph 47, 49 and 59) and entering seating information representative of a seating location of the customer at the entertainment event for use in directing the image capture device towards the seating location (paragraph 74 and 75; where a person with access the website enters the customers seating location into the website to see a real time picture of the customer; to get a real time picture a camera must be directed towards the seating location of the customer, this is done in response to the seating location, which was enter via the website). Therefore, **Shniberg** teaches entering seating information representative of a seating location of the customer at the entertainment event for use in directing the image capture device towards the seating location.

As stated in **Shniberg** (paragraph 75) at the time the invention was made it would have been obvious to include using the seating location to direct an image capture device towards the seating location as taught by **Shniberg** in the system disclosed by **Blank in view of Gluck**, for doing so would allow a viewer of an event to see a real time picture of the customer at the entertainment event which the viewer could then purchase to keep are a record of the customer being at the entertainment event, thus allowing the viewer to more personally relate to the event with the customer.

With respect to **claim 12 Blank** discloses (in Fig. 1, 18, 19a-d and column 28 line 1 through column 32 line 60) an image service kiosk comprising: an imaging service



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display section which provides the customer with a displayed menu of imaging services; through a customer input section customers select services from the menu; the selected services are then used to create images containing the customer. More specifically, **Blank** discloses a imaging services kiosk (Fig. 1 and 900 of Fig. 18) comprising: an imaging services display section (908) (column 28 lines 61-62) adapted to display a menu (column 31 lines 28-37) of imaging services to a customer (column 28 lines 18-43; where the imaging services provided to the customer are through the editing and manipulation program which moves enlarges, rotates, and enhances the images by selection of tools, painting tools, and special effects available in the imaging system 900), discloses an image capture device (106, 914) (column 10 lines 40-45 and column 32 lines 16-21) which is adapted to capture an image of the customer (column 10 lines 46-53); an input port (920, 918 and/or 916) to permit an uploading of customer digital images into said kiosk (column 29 lines 10-21; where uploading is capturing video images); and a customer input section (922 and 924) adapted to permit the customer to select an imaging service from the menu of imaging services (column 31 lines 28-31), such that said selected imaging service comprises creating a composite image (column 14 lines 16-19) which includes the customer image captured by the image capture device (column 10 lines 40-53 and column 13 lines 53-66; such that the composite image comprises at least one image of the customer, that of the customer's head and neck). Therefore, **Blank** teaches an imaging service kiosk comprising: an imaging services display section adapted to display a menu of imaging services to a customer; an image capture device which is adapted to capture an image of the customer; an

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input port to permit an uploading of customer images into said kiosk; and a customer input section adapted to permit the customer to select an imaging service from the menu of imaging services, such that said selected imaging service comprises creating a composite image which includes the customer image captured by the image capture device.

**Blank** also discloses (column 8 lines 45-52) that the imaging system disclosed can be used in virtually an application where it is desirable to separate an object from a background in a digital image, and then combine the object with a different background to form a composite image. **Blank** does not expressly disclose that the composite image includes at least one image of the entertainment event and/or at least one image of participants at the entertainment event combined with the customer images, that the imaging service is selected either prior to attendance at an entertainment event or while in attendance at the event or entering seating information representative of a seating location of the customer at the entertainment event for use in directing the image capture device towards the seating location.

In analogous art, **Gluck** discloses an imaging system and method at an entertainment event which provides customers with an imaging service selected by the customer either prior to attendance at an entertainment event or while in attendance at the event; the imaging service comprises a composite photo containing images of the participants at the entertainment event and images of the customer while viewing the entertainment event. More specifically, **Gluck** discloses, in Fig 1, 4 and 6, an imaging service (column 3 lines 61-67; where the imaging service is providing the customer

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personalized souvenirs) at an entertainment event (Fig. 1; a basketball game); the imaging service being provided by a kiosk (column 6 line 62 through column 7 line 1; where the kiosk is the video unit or the walk-up window) either prior to attendance at an entertainment event or while in attendance at the event (column 6 lines 65 through column 7 line 5; where the imaging service is selected by the customer while in attendance at the event); and the customers imaging services (personalized souvenirs) comprise a composite image (column 6 lines 17-23) comprising at least one image of the entertainment event and/or the participants (column 4 lines 4-11 and column 3 lines 61-67) combined with the customer image captured by the image capture device (8) (column 2 lines 50-55 and column 4 lines 51-57) (column 3 lines 61-67; images taken by step 400a [the participant images] and images taken by step 400c [the customer images] are combined in step 440 to one composite image). Therefore, **Gluck** teaches an imaging services kiosk comprising: an imaging service selected by the customer either prior to attendance at an entertainment event or while in attendance at the event, said imaging services being associated with an entertainment event which is attended by the customer; an image capture device which is adapted to capture an image of the customer; and a customer input section adapted to permit the customer to select an imaging service, such that said selected imaging service comprises creating a composite image which includes at least one image of the entertainment event and/or at least one image of participants at the entertainment event combined with the customer image captured by the image capture device.

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As stated in **Gluck** (column 1 lines 36-40 and column 2 lines 14-18) at the time the invention was made it would have been obvious to one of ordinary skill in the art to include the imaging services at an entertainment event taught by Gluck in the imaging services provided by the kiosk disclosed by Blank, for doing so would allow customers attending live events a means to positively indicate they attended the live event through a truly personalized souvenir which is provided to a large number of customers quickly and easily while the customers attend the live event.

Further in analogous art, **Shniberg** discloses, in Fig. 1, 4 and 6, an imaging service offered to a customer, which takes images of the customer at a seating location and entering seating information representative of a seating location of the customer at the entertainment event for use in directing the image capture device towards the seating location. More specifically, **Shniberg** discloses an imaging service offered to a customer (paragraph 46 and 80), which takes images of the customer at a seating location (paragraph 47, 49 and 59) and entering seating information representative of a seating location of the customer at the entertainment event for use in directing the image capture device towards the seating location (paragraph 74 and 75; where a person with access the website enters the customers seating location into the website to see a real time picture of the customer; to get a real time picture a camera must be directed towards the seating location of the customer, this is done in response to the seating location, which was enter via the website). Therefore, **Shniberg** teaches entering seating information representative of a seating location of the customer at the

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entertainment event for use in directing the image capture device towards the seating location.

As stated in **Shniberg** (paragraph 75) at the time the invention was made it would have been obvious to include using the seating location to direct an image capture device towards the seating location as taught by **Shniberg** in the system disclosed by **Blank in view of Gluck**, for doing so would allow a viewer of an event to see a real time picture of the customer at the entertainment event which the viewer could then purchase to keep as a record of the customer being at the entertainment event, thus allowing the viewer to more personally relate to the event with the customer.

With respect to **claims 9, 11 and 13 Gluck** further discloses, in Fig. 6, an easel frame with cutout windows 30, 32, and 34 for various images corresponding to the image-editing software templates of an event ticket 36, spectator photo 38, and an action photo 40 respectively (column 6 lines 26-34); the customer gives preference to a participant of the event by displaying a photo of himself/herself (38) with a photo of a selected participant, the selected participant photo being the action photo (40). Therefore, **Blank in view of Gluck in further view of Shniberg** reads on the claim: the customer input section is further adapted to permit the customer to input preferences with regard to the participants at the entertainment event.

With respect to **claim 14 Gluck** further discloses selecting images of the participants in the entertainment event (column 6 lines 17-20 and lines 26-34; where the computer prepares the final personalized souvenir by selecting desired images, which includes action photos (40) which are images of participants in the entertainment event).

Therefore, **Blank in view of Gluck in further view of Shniberg** teaches said customer input section is further adapted to permit the customer to select images of the participants in the entertainment event.

With respect to **claim 15 Blank** further discloses images are selected by the user (column 10 line 63 through column 11 lines 1) and, in Fig 4h, that the customer can replace a participate in an image with the customers image, thus placing himself in an image of an event (column 11 lines 4-13, lines 48-52 and column 13 lines 8-15; where the final composite image contains the customers head and neck on the body of a selected person in the image of an event). Therefore, **Blank in view of Gluck in further view of Shniberg** teaches said customer input section is further adapted to permit the customer to select images of himself in the entertainment event.

**Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,469,536 to Blank in view of U.S. Patent 6,532,345 to Gluck in further view of U.S. Patent 6,473,739 to Showghi et al.**

With respect to **claim 16 Blank** discloses a method of displaying images (column 10 line 63 through column 11 line 1) and offering imaging services to a customer (column 9 lines 13-16; where the imaging service is creating the sheet 120 containing the image of the person), the method comprising: displaying images (column 10 line 63 through column 11 line 1) to a customer on an interactive display screen (column 9 lines 34-38), and offering an interactive selection session (column 9 lines 36-38) to the customer to permit the customer to select a desired image or images from the displayed images (column 10 line 63 though column 11 line 19) and select a desired image

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product representative of the desired image or images (column 9 lines 12-15 and column 51 lines 38-45; where the desired image product is selected by the choices of customer images, background images, and person to replace within the background during the process of creating the sheet containing the image of the person).

**Blank** also discloses (column 8 lines 45-52) that the imaging system disclosed can be used in virtually an application where it is desirable to separate an object from a background in a digital image, and then combine the object with a different background to form a composite image. **Blank** does not expressly disclose that the imaging service is at an entertainment event, that the interactive display is accessible at a seating location of the customer; that the displayed images comprise at least one image of participants in the entertainment event; that the images of the customer are while viewing the entertainment event or that the interactive selection session is at the seating location.

In analogous art, **Gluck** discloses offering imaging services to a customer while at an entertainment event, the images being displayed in proximity to a seating location of the customer, and the customer selecting a desired image product. More specifically, **Gluck** discloses offering imaging services to a customer (column 3 lines 61-67; where the imaging service is providing the customer personalized souvenirs) while at an entertainment event (Fig. 1; a basketball game), comprising: displaying images to a customer at an entertainment event in proximity to a seating location of the customer (column 6 line 52 through column 7 line 1; where the location within the venue is in proximity to the customers seating location, the customer may view there personalized

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souvenir, which contains the selected images (column 6 lines 17-23), at the seat when received from the vendor, at the video unit throughout the venue, or at the walk-up window within the venue), said displayed images comprising at least one of images of participants in the entertainment event (40) (column 4 lines 4-11 and column 6 lines 26-34) and images of the customer while viewing the entertainment event (38) (column 4 lines 51-53 and column 6 lines 26-47); and selecting a desired image product representative of the desired image or images (column 6 line 52 through column 7 line 1; the desired image product is selected when the customer chooses to obtain the personalized souvenir from the vendor, video unit, or walk-up window). Therefore, **Gluck** teaches offering imaging services to a customer while at an entertainment event, comprising: displaying images to a customer at an entertainment event, said displayed images comprising at least one of images of participants in the entertainment event and images of the customer while viewing the entertainment event; and selecting a desired image product representative of the desired image or images.

As stated in **Gluck** (column 1 lines 36-40 and column 2 lines 14-18) at the time the invention was made it would have been obvious to one of ordinary skill in the art to include the imaging services in proximity to the customer's seating location at an entertainment event taught by **Gluck** in the imaging services provided by the interact display disclosed by **Blank**, for doing so would allow customers attending live events a means to positively indicate they attended the live event through a truly personalized souvenir which is provided to a large number of customers quickly and easily while the customers attend the live event.



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Further, in analogous art, **Showghi** discloses, in Fig. 1-5 and 8, an interactive selection session at an entertainment event, where a customer may select to purchase a souvenir of the entertainment event from an interactive display accessible at the customers seating location and while seated at the seating location. More specifically, **Showghi** discloses an interactive selection session at an entertainment event, where a customer may select to purchase a souvenir of the entertainment event from an interactive display accessible at the customers seating location and while seated at the seating location (column 4 lines 5-13, 24-36 and 44-48, column 6 lines 35-37 and column 7 lines 17-22 and 34-40; where the customer uses a hand-held communication device with an interactive display to purchase souvenirs from the customers seat). Therefore, **Showghi** teaches that the interactive display is accessible at a seating location of the customer and that the interactive selection session is at the seating location.

As stated in **Showghi** (column 5 lines 4-13 and lines 49-53) at the time the invention was made it would have been obvious to one of ordinary skill in the art to include the selection session to be at the seating location on an interactive display accessible at the seating location as taught by **Showghi** in the system disclosed by **Blank in view of Gluck**, for doing so would enable patrons to easily select an quantity and variety of items at any time while in the venue, order and pay for the items, all without moving from the patron's seat, thus providing the customer better service.

**(10) Response to Argument**

With respect to **claims 1-7** Appellant argues that the Examiner's assertions that **Weston's** choice of comic book having corresponding pre-determined locations needed to complete the selected comic book "is not analogous to Appellants' seating location, which is a predetermined, assigned seat in a venue." Appellant further argues that:

*"Appellants' invention includes recording an imaging service selected by the customer, and assigning an identification code to the customer, which steps are similar to Weston et al. However, the identification code assigned by Appellants' invention includes not only information on the selected imaging service, but also information inputted by the customer on a seating location of the customer at the event. This seating location that the customer must input is an assigned seating location within the venue of the event, to which the customer was assigned when the ticket to the event was purchased."*

Appellant then states, "a customer of Weston et al. provides no location information to the imaging system". Thus, Appellant argues Weston et al "does not teach or disclose a seating location particular to a customer" and "does not disclose information inputted by the customer on a seating location of the customer at an entertainment event, or supplying images of at least the customer at the seating location while viewing the entertainment event."

The Examiner respectfully disagrees with Appellant. **Claim 1** states, "said identification code including at least information on the selected imaging service and

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**information inputted by the customer on a seating location** of the customer at the entertainment event". It is not claimed that the "seating location that the customer must input is an assigned seating location within the venue of the event, to which the customer was assigned when the ticket to the event was purchased". Also, it is not claimed that the customer must explicitly enter a seating location. What is claimed is that the customer must input "**information on a seating location**", which is<sup>n</sup> Weston is the customer inputted comic book choice which has corresponding pre-determined locations for image capture. Thus, Weston discloses the claimed limitation because:

*Since the Examiner considers the entertainment event as the park the claim is written broadly enough that the customer at the park can be considered to be both the customer and the participant in the entertainment event. Therefore Weston discloses images including images of participants in the entertainment event and images of at least the customer while viewing the entertainment event since the customer would be the participant in the entertainment event when playing in, on or around the facility (column 4 lines 20-23). Also, since the identification code is used to index the photos of the customer for creation of the photo album or interactive comic book (column 3 lines 58-62, column 4 lines 41-44, column 5 lines 19-24 and column 7 line 58 through column 8 line 3) the identification code can be viewed as containing information of the selected imaging service and the seating location of the customer. **The seating location of the customer corresponding to the image taking location of the customer within the park. This seating location is inputted by the customer***

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***when the customer selects the type of comic book they would like to be transformed into as each comic book has predetermined locations of image capture.***

These seating locations are assigned to the customer at the time of purchasing the comic book to be created, which is analogous to one assigned seating location being assigned to the customer at the time of ticket purchase in Appellant invention.

With respect to **claims 8-15** Appellant argues "Blank in view of Gluck fails to disclose or suggest at least selecting an imaging service prior to attendance at an entertainment event, or an imaging service selection including entering seat information representative of a customer seating location for use in directing an image capture device towards the seating location." (page 10 of the Appeal Brief filed 9/18/2006).

The Examiner respectfully disagrees with Appellant.

First, **claims 8 and 10** state, "a customer input section adapted to permit a customer to select, either prior to attendance at an entertainment event **or** while in attendance at the event, an imaging service..." (emphasis added). Use of the word **OR** does not necessitate that the selection must be done prior to attendance at the entertainment event if the selection is done while in attendance at the event. As stated by the Examiner, paragraph 21 of the Office Action mailed 2/24/2006, **Gluck** discloses the selection of the imaging service while in attendance at the event (column 6 line 65 through column 7 line 5).

Second, the Examiner has provided **Schniberg** to teach "an imaging service selection including entering seat information representative of a customer seating location for use in directing an image capture device towards the seating location". Appellant asserts that **Schniberg** teaches the images already exist and are taken continuously of all attendees and that "entering the seat number merely allows the web-based system to identify the appropriate image to display, similar to identifying a taken mage (sic) in Gluck, but does not direct a camera as one or more cameras are already directed at the desired seating location." (page 10 of the Appeal Breif filed 9/18/2006). The Examiner again respectfully disagrees with Appellant. In paragraph 49 **Schniberg** discloses one or more movable cameras 122 and then in paragraph 74 discloses that a "real time" picture of the spectator at the seating location may be viewed via the web-based system. Also, as can be seen in Fig. 1 the movable camera 122 is focused on one spectator in the stands of the event and the corresponding image from camera 122 is displayed on the monitor of the computer 126. Thus, to obtain a "real time" image of the spectator the movable camera must be directed towards the seating location of the spectator. The only way for the camera not to be directed towards the spectator when a "real time" picture is taken is if one movable camera 122 is statically provided for viewing each spectator. Such an example does not seem practical or likely to occur as the event of **Schniberg** is a football game which is known to have tens of thousands of spectators at an event.

Further, with respect to **claims 12-15** Appellant argues **Blank, Gluck, or Schniberg** does not teach “forming a composite image including at least one image of the entertainment event or participants therein combined with at least one customer image captured by an image capture device or an uploaded digital image.” (page 11 of the Appeal Brief filed 9/18/2006).

The Examiner respectfully disagrees with Appellant. In paragraph 31 of the Office Action mailed 2/24/2006 the Examiner stated **Blank** disclosed uploading images in column 29 lines 10-21. As clearly stated in column 29 lines 10-21 the imaging system of **Blank** configured to capture video images via a frame grabber interface or capture board 912 and said frame grabber 912 is optionally connected to typical video sources including a video camera 914 or still video camera 920. This is analogous the Appellants’ invention which “is directed to uploading of still images from a digital or hybrid camera”.

Finally, Appellant argue, with respect to **claim 16**, that “none of the cited references of Blank, Gluck, or Showghi et al., alone or in any combination, teach, disclose, or suggest at least offering an interactive selection session to the customer to permit the customer, while seated at the seating location, to select a desired image or images from the displayed images and select a desired image product representative of the desired image or images.” (page 14 of the Appeal Brief filed 9/18/2006).

The Examiner respectfully disagrees with Appellant. In combination **Blank** in view of **Gluck** teaches offering an interactive selection session to the customer to

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permit the customer to select a desired image or images from the displayed images and select a desired image product representative of the desired image or images.

However, **Blank** in view of **Gluck** does not teach that such a selection occurs while seated at the seating location. The Examiner provided **Showghi** to teach such a limitation. As stated in paragraph 45 of the Office Action mailed 2/24/2006, "**Showghi** discloses an interactive selection session at an entertainment event, where a customer may select to purchase a souvenir of the entertainment event from an interactive display accessible at the customers seating location and while seated at the seating location (column 4 lines 5-13, 24-36 and 44-48, column 6 lines 35-37 and column 7 lines 17-22 and 34-40; where the customer uses a hand-held communication device with an interactive display to purchase souvenirs from the customers seat)" and provides motivation as to why one would want to select souvenirs for purchase from one seating location in column 5 lines 4-13 and lines 49-53 of **Showghi**. Thus, as stated in paragraph 46 of the Office Action mailed 2/24/2006 "at the time the invention was made it would have been obvious to one of ordinary skill in the art to include the selection session to be at the seating location on an interactive display accessible at the seating location as taught by **Showghi** in the system disclosed by **Blank in view of Gluck**, for doing so would enable patrons to easily select a quantity and variety of items at any time while in the venue, order and pay for the items, all without moving from the patron's seat, thus providing the customer better service". More specifically, **Showghi** teaches that it would have been obvious to one of ordinary skill in the art to provide the imaging

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service disclosed by **Blank in view of Gluck** at the users seating location instead of at kiosk spread through an entertainment event.

For the above reasons, it is believed that the rejection should be sustained.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

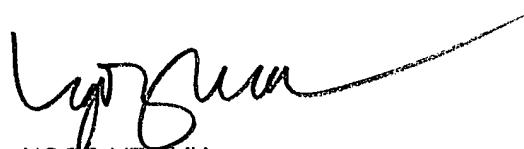
Respectfully submitted,

Daniel Pasiewicz



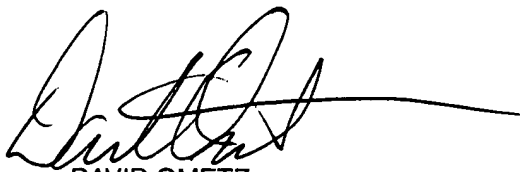
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